

III. REMARKS

Claims 1, 2, 4-17, and 19-21 have been presented for prosecution and were rejected under 35 USC 102(e) as being anticipated by Radha et al. ("Radha"), US 6,292,512. Applicants have herein amended claims 1, 10, 15 and 19 to better clarify the subject matter of the invention. Applicants respectfully traverse this rejection because Radha fails to teach each and every feature of the claimed invention. For instance, claim 1 recites:

"a system for assigning a variable **modulation** rate to each stream of encoded video data based on the determined priority, wherein streams determined as having a relatively low priority are assigned a higher **modulation** rate than streams determined as having a relatively high priority *and wherein the variable modulation rate dictates a rate at which a stream of encoded video is to be transmitted over a transmission channel.*"

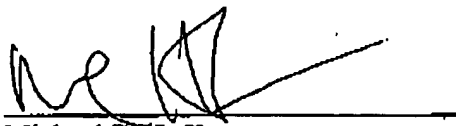
As pointed out previously, Applicants believe that the Examiner is misinterpreting the teaching of the prior art. In particular, columns 6 and 8 of Radha do not teach *transmitting* different streams at different modulation rates. Columns 6 and 8 teach **encoding** the streams at different bitrates based on the available bandwidth. "BL encoder 44 compresses the video at a predetermined bitrate, R_{BL} ." See column 6, lines 23-24. As is well understood in the art, the higher the encoding bitrate, the larger the resulting file, and larger files require more bandwidth to transmit than smaller files. Thus, if there is a lot of available bandwidth, Radha teaches encoding at a higher bit rate, i.e., create a big file if there is a lot of bandwidth; create a small file if there is less bandwidth. Lines 28-37 in column 6 referred to in the Office Action merely teach how this bitrate, R_{BL} is determined. Lines 28-37 never teach or suggest using a variable modulation rate that *dictates a rate at which a stream of encoded video is to be transmitted over a transmission channel.*

Column 8, lines 15-47 of Radha then refers to how the EL files are selected. Namely, as described in column 6, the BL bitstream is encoded to a size that is less than the available bandwidth. The remaining bandwidth is then filled with one or more EL bit streams, based on their size (i.e., bandwidth). Again, column 8, lines 15-47 of Radha does not teach transmitting bitstreams at different rates, it teaches selectively transmitting bitstreams of different size.

Thus, in summary, the present application adjusts the transmission rate of each bitstream, while Radha teaches adjusting the size (i.e., bandwidth) of the data. And more particularly, in Radha, the size of the data is determined by encoding the files at different bit rates, i.e., how many bits/sec are to be used to represent a set of image data. Accordingly, Applicants submit that because the sections cited by the Examiner in the final Office Action fail to teach the concept of adjusting transmission rates, the claims are not anticipated under 35 USC 102(e).

Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



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